

ASSEMBLY BILL

No. 2260

Introduced by Assembly Member Negrete McLeod

February 22, 2006

An act to amend Sections 2111 and 2113 of, and to add Section 2220.7 to, the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2260, as introduced, Negrete McLeod. Approvals and certificates of registration.

(1) Existing law, the Medical Practice Act, prohibits the practice of medicine without a physician and surgeon's certificate issued by the Medical Board of California through its Division of Licensing. The act, however, authorizes a foreign physician who seeks postgraduate study in an approved medical school to apply to the division for approval to participate in the school's professional activities. Under the act, a foreign physician may apply to the division for 2 extensions of the approval granted to him or her. The act also authorizes a person who does not immediately qualify for a physician and surgeon's certificate and has been offered a medical school faculty position to apply to the division for a certificate of registration to engage in the practice of medicine. Under the act, a certificate of registration may be renewed for a total period of 5 years, and renewal may be denied if the registrant is a graduate of a foreign medical school, as specified. The act directs the deposit of all revenue collected by the board into the Contingent Fund of the Medical Board of California, where funds other than penalty revenue are continuously appropriated.

This bill would revise the renewal provisions for approvals granted to foreign physicians, limiting the duration of those approvals to 3

years, and would also revise the renewal provisions for certificates of registration, allowing 2 renewals and an additional extension, at the division's discretion, upon a showing of continued progress towards obtaining a physician and surgeon's certificate and issuance of a certificate by the Educational Commission for Foreign Medical Graduates for graduates of foreign medical schools, other than those located in Canada. The bill would require additional information on the applications for approval and for certificates of registration. The bill would require a foreign physician and a registrant to provide identifying information to their patients and would prohibit a registrant from charging patients for the medical services he or she provides and would prohibit the medical school from charging patients for those provided by a foreign physician. The bill would require the division to notify the medical school and the foreign physician or registrant of a complaint and would authorize the Division of Medical Quality to take disciplinary action against the foreign physician or registrant. The bill would authorize the division to charge application and renewal fees for the approval and the certificate of registration. By increasing that part of the revenue in the Contingent Fund of the Medical Board that is continuously appropriated, the bill would make an appropriation.

(2) The board through its Division of Medical Quality may take disciplinary action against a physician and surgeon for violating the Medical Practice Act. The act also makes a violation of its regulatory provisions a crime.

This bill would prohibit a physician and surgeon from including certain provisions in an agreement to settle a civil dispute arising from his or her practice that interferes with communications, as specified, between the board and another party to the dispute. The bill would make the violation of this requirement subject to disciplinary action by the board and because it would also be punishable as a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b), are legally admitted to the United States, and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the Division of Licensing, be permitted to participate in the professional activities of the department in the medical school to which they are appointed. The physician shall be under ~~the direction~~ *direct supervision* of the head of the department to which he or she is appointed, and shall be known for these purposes as a ~~“Section 2111 guest physician.”~~ *“visiting fellow.”* *The visiting fellow shall wear a visible name tag containing the title “visiting fellow” when he or she provides medical services.*

(b) (1) Application for approval shall be made on a form prescribed by the division *and shall be accompanied by a fee in an amount fixed by the division.* The application shall show that the person does not immediately qualify for a physician and ~~surgeon~~ *surgeon’s* certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements. *The application shall also describe the recruitment efforts made by the medical school before offering the appointment to the applicant.*

(2) *Approval shall be granted only for appointment to one medical school, and no physician shall be granted more than one approval for the same period of time.*

(3) ~~Approval shall~~ *may* be granted for a maximum of three years and shall be renewed annually. ~~Renewal shall be granted subject to the discretion of the division. Notwithstanding the limitations in this subdivision on the length of the approval, a Section 2111 guest physician may apply for, and the division may in its discretion grant, not more than two extensions of that approval. An extension may be granted only if the dean of the California medical school has provided justification that the extension is necessary and the person holds a certificate issued by the Educational Commission for Foreign Medical Graduates~~ *The visiting fellow shall submit a request for renewal to the*

1 *division on a form it prescribes and shall include a renewal fee*
2 *in an amount fixed by the division.*

3 (c) Except to the extent authorized by this section, the visiting
4 ~~physician fellow~~ may not engage in the practice of medicine, ~~bill~~.
5 *Neither the visiting fellow nor the medical school may assess any*
6 *charge for his or her the medical services, or otherwise provided*
7 *by the visiting fellow, and the visiting fellow may not receive*
8 *compensation therefor.* ~~The~~

9 (d) *The time spent under appointment in a medical school*
10 *pursuant to this section may not be used to meet the requirements*
11 *for licensure under Section 2102.*

12 (e) *The division shall notify the visiting fellow and the dean of*
13 *the appointing medical school of a complaint made about the*
14 *visiting fellow. The Division of Medical Quality may take action*
15 *against a visiting fellow as provided in this chapter.*

16 ~~(d)~~

17 (f) *The amount of the fees fixed by the division pursuant to this*
18 *section shall not exceed its cost in administering the approval*
19 *program.*

20 (g) Nothing in this section shall preclude any United States
21 citizen who has received his or her medical degree from a
22 medical school *recognized by the division that is located in a*
23 *foreign country from participating in any program established*
24 *pursuant to this section.*

25 SEC. 2. Section 2113 of the Business and Professions Code is
26 amended to read:

27 2113. (a) Any person who does not immediately qualify for
28 ~~a physician's~~ *physician* and surgeon's certificate under this
29 chapter and who is offered by the dean of an approved medical
30 school in this state a full-time faculty position may, after
31 application to and approval by the Division of Licensing, be
32 granted a certificate of registration ~~to engage in the practice of~~
33 ~~medicine only to the extent that the practice is incident to and a~~
34 ~~necessary part of his or her duties as approved by the division in~~
35 ~~connection with the faculty position. A clinical fellowship shall~~
36 ~~not qualify a person to apply for a certificate of registration.~~

37 (b) To qualify for the certificate, an applicant shall ~~meet all the~~
38 ~~following requirements~~ *submit an application to the division in a*
39 *form it prescribes along with a registration fee in an amount*

1 *fixed by the division. The applicant shall include with his or her*
2 *application the following information:*

3 (1) ~~Furnish documentary~~ *Documentary* evidence satisfactory
4 to the division that the applicant is a United States citizen or is
5 legally admitted to the United States.

6 (2) If the applicant is a graduate of a medical school other than
7 in the United States or Canada, ~~furnish~~ *documentary* evidence
8 satisfactory to the division that he or she has been licensed to
9 practice medicine and surgery for not less than four years in
10 another state or country whose requirements for licensure are
11 satisfactory to the division, or has been engaged in the practice of
12 medicine in the United States for at least four years in approved
13 facilities, or has completed a combination of that licensure and
14 training.

15 (3) If the applicant is a graduate of an approved medical
16 school in the United States or Canada, ~~furnish~~ *documentary*
17 evidence that he or she has completed a resident course of
18 professional instruction as required in Section 2089.

19 ~~(3) The~~

20 (4) *Written certification by the head of the department in*
21 *which where the applicant is to will be appointed shall certify in*
22 *writing to the division that the of the following matters:*

23 (A) *The applicant will be under his or her direction and.*

24 (B) *The applicant will not be permitted to practice medicine*
25 *unless incident to and a necessary part of the applicant's his or*
26 *her duties as approved by the division in subdivision (a) (f).*

27 ~~(4) Submit an application on a form prescribed by the division.~~

28 (C) *The applicant will be under the direct supervision of the*
29 *department chair for the speciality in which the applicant will*
30 *practice.*

31 (D) *The applicant will be proctored in the same manner as*
32 *other new faculty members, including review by the medical staff*
33 *of the school's medical center.*

34 (E) *The applicant will not be appointed to a supervisory*
35 *position at the level of a department chair or division chief.*

36 (5) ~~The Demonstration by the dean of the medical school shall~~
37 *demonstrate* that the applicant has the requisite qualifications to
38 assume the position to which he or she is to be appointed *and a*
39 *description of the recruitment efforts made by the medical school*
40 *before offering the faculty position to the applicant.*

1 (c) *A certificate of registration shall be issued only for a*
2 *faculty position at one approved medical school, and no person*
3 *shall be issued more than one certificate of registration for the*
4 *same period of time.*

5 (d) (1) *A certificate of registration is valid for one year after*
6 *its date of issuance and may be renewed twice. During this period*
7 ~~*the division may require the registrant to take the written*~~
8 ~~*examination required for issuance of a physician's and surgeon's*~~
9 ~~*certificate. If the registrant is required to take the written*~~
10 ~~*examination and does not pass, the certificate of registration shall*~~
11 ~~*nevertheless be effective for the one-year period issued and if the*~~
12 ~~*effective period of the certificate will lapse before the*~~
13 ~~*examination may be retaken, the certificate of registration may*~~
14 ~~*be renewed, subject to the discretion of the division, for a period*~~
15 ~~*not to exceed one additional year.*~~

16 ~~*If the registrant is not required to take the written examination*~~
17 ~~*in order to be issued a certificate of registration or has passed that*~~
18 ~~*examination, the certificate of registration may be renewed*~~
19 ~~*annually at the discretion of the division for a total period of five*~~
20 ~~*years from the date of issuance of the original certificate;*~~
21 ~~*provided, however, that the division, may in its discretion refuse*~~
22 ~~*to renew a certificate of registration if the registrant is a graduate*~~
23 ~~*of a medical school other than in the United States or Canada and*~~
24 ~~*has not, within two years after registration, been issued a*~~
25 ~~*certificate by the Educational Commission for Foreign Medical*~~
26 ~~*Graduates. The division may condition any renewal on passing*~~
27 ~~*the written examination as described in this subdivision.*~~

28 ~~*(d) A request for renewal shall be submitted on a form*~~
29 ~~*prescribed by the division with a renewal fee in an amount fixed*~~
30 ~~*by the division.*~~

31 (2) *If the registrant has not completed the prerequisites for the*
32 *physician and surgeon's certificate, the dean of the medical*
33 *school may submit a plan to the division before the term of the*
34 *second renewal of the registrant's certificate expires, that*
35 *demonstrates the registrant's continued progress toward*
36 *satisfying those prerequisites and the issuance of a certificate by*
37 *the Educational Commission for Foreign Medical Graduates, if*
38 *the registrant is a graduate of a medical school located in a*
39 *country other than the United States or Canada. The division*
40 *may, in its discretion, extend the certificate of registration for a*

1 *two-year period to allow the registrant to obtain a physician and*
2 *surgeon's certificate.*

3 (e) If the registrant is a graduate of a medical school other than
4 in the United States or Canada, he or she shall meet the
5 requirements of Section 2102 or 2135, as appropriate, in order to
6 obtain a ~~physician's~~ *physician* and surgeon's certificate.
7 Notwithstanding any other provision of law, the division may
8 accept practice in an appointment pursuant to this section as
9 qualifying time to meet the postgraduate training requirements in
10 Section 2102, and may, in its discretion, waive the examination
11 and the Educational Commission for Foreign Medical Graduates
12 certification requirements specified in Section 2102 in the event
13 the registrant applies for a ~~physician's~~ *physician* and surgeon's
14 certificate. As a condition to waiving any examination or the
15 Educational Commission for Foreign Medical Graduates
16 certification requirement, the division in its discretion, may
17 require an applicant to pass the clinical competency examination
18 referred to in subdivision (d) of Section 2135. The division shall
19 not waive any examination for an applicant who has not
20 completed at least one year in the faculty position.

21 ~~(e) Except to the extent authorized by this section, the~~

22 (f) ~~The registrant shall not~~ *may* engage in the practice of
23 *medicine only to the extent that the practice is incident to, and a*
24 *necessary part of, his or her duties as approved by the division in*
25 *connection with the faculty position. The registrant shall not*
26 *admit a patient to a nursing facility or a skilled or assisted living*
27 *facility that is not formally affiliated with the medical school*
28 *where he or she is a faculty member. The registrant shall not*
29 *assess a charge for the medical services he or she provides for a*
30 *patient or receive compensation therefor, unless he or she is*
31 *issued a physician's and surgeon's certificate.*

32 (g) *The registrant shall wear a visible name tag while*
33 *providing medical services containing the title "visiting*
34 *professor" or "visiting faculty member" and shall obtain a*
35 *signed statement from each patient he or she treats,*
36 *acknowledging the services are provided by a person who does*
37 *not hold a physician and surgeon's certificate but who is*
38 *qualified to participate in a special program as a visiting*
39 *professor or faculty member.*

1 (h) *The division shall notify the registrant and the dean of the*
2 *medical school of a complaint made about the registrant. The*
3 *Division of Medical Quality may take action against a registrant*
4 *as provided in this chapter.*

5 (i) *The amount of the fees fixed by the division pursuant to this*
6 *section shall not exceed its costs in administering the registration*
7 *program.*

8 SEC. 3. Section 2220.7 is added to the Business and
9 Professions Code, to read:

10 2220.7. (a) A physician and surgeon shall not include or
11 permit to be included, any of the following provisions in an
12 agreement to settle a civil dispute arising from his or her practice,
13 whether the agreement is made before or after filing the action:

14 (1) A provision that prohibits another party to the dispute from
15 contacting or cooperating with the board.

16 (2) A provision that prohibits another party to the dispute from
17 filing a complaint with the board.

18 (3) A provision that requires another party to the dispute to
19 withdraw a complaint he or she has filed with the board.

20 (b) A provision described in subdivision (a) is void as against
21 public policy.

22 (c) A physician and surgeon who violates this section is
23 subject to disciplinary action by the board.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the
29 penalty for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition of a
31 crime within the meaning of Section 6 of Article XIII B of the
32 California Constitution.